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11 City of Burbank

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14
15 WILLIAM TAYLOR,

16 Plaintiff,

17 v.

18 CITY OF BURBANK and DOES 1
19 through 100, inclusive,,
20 Defendants.

Case No. BC 422252

Assigned to: Hon John Shepard Wiley, Jr.

Action Filed: Sept. 22, 2009
Trial Date: September 20, 2011

JOINT STATUS CONFERENCE
STATEMENT OF THE PARTIES AND
REQUEST FOR VACATING OF HEARING
SET FOR APRIL 6, 2011

Date: April 6, 2011
Time: 8:30 a.m.
Dept.: 50

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25 Plaintiff William Taylor, Defendant City of Burbank, and Jay Jette and Eric Rosoff jointly
26 submit the following Joint Status Conference Statement responding to the Court's Minute Order
27 dated February 9, 2011, and their joint request that the Court vacate the April 6, 2011 *Pitchess*
28 Motion hearing date set by the February 9 Minute Order.

CITY ATTORNEY

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1 1. Background of the Litigation and The *Pitchess* Motion as to Jette and Rosoff

2 The instant lawsuit for wrongful demotion was filed by Plaintiff in September, 2009,
3 alleging that he was demoted by then Chief of Police Tim Stehr in retaliation for his reports of
4 alleged race discrimination and sexual harassment at the Burbank Police Department.¹ The City
5 answered, denying those allegations and raising various affirmative defenses. Plaintiff's First
6 Amended Complaint was deemed filed December 15, 2010, and it added allegations that Plaintiff
7 was wrongfully terminated by current Chief of Police Scott LaChasse. The City answered and
8 denied the amended allegations, raising various affirmative defenses as well.

9 On August 25, 2010, Plaintiff served counsel for the City with two motions pursuant to
10 *Evidence Code* §1043 titled "Motion for Discovery of Peace Officer Personnel and Other Records
11 Regarding Burbank Police Department Lieutenant Eric Rosoff," and "Motion for Discovery of
12 Peace Officer Personnel and Other Records Regarding Burbank Police Department Lieutenant
13 Jay Jette" seeking production of personnel files with the Burbank Police Department of Jay Jette
14 and Eric Rosoff. Thereafter the City and Lieutenants Jette and Rosoff filed a motion for
15 protective order concerning those *Pitchess* motions, seeking an order that if the motions were to
16 be filed then they be filed under seal -- because of what the moving parties contended was a
17 possible violation of the right of privacy of certain officers by the content of the moving papers
18 themselves. Plaintiff disagreed and opposed the motion for protective order, but agreed to
19 conditionally lodge the motions so that the Court could review them but to prevent them from
20 being publicly filed at that time. This maintained the status quo pending resolution of the
21 protective order and the filing under seal issues.

22
23 2. The Tentative Date Reserved for the Jette and Rosoff "Good Cause" Hearing.

24 On December 15, 2010, the Court held a hearing on several *Pitchess* - related motions
25 including the Motion for Protective Order as to Plaintiff's *Pitchess* motions regarding Lieutenants

26 ¹ Plaintiff alleges he was demoted from the position of Deputy Chief to the position of Captain;
27 the City contends that there was no ranked position of Deputy Chief at the time, and that the
28 removal of the Deputy Chief title was a reassignment of duties rather than a demotion.

1 Jette and Rosoff. The Court denied the requested protective order, reserved a tentative date of
2 February 9, 2011 for the "good cause" stage of *Pitchess* motion process regarding the Jette and
3 Rosoff motions, and set a January 19, 2011 date for a status conference as to that same set of
4 motions given the City's indication at the December 15 hearing of its intention to seek a writ
5 requiring that those motions be filed under seal. On December 30, 2010, the City and Lieutenants
6 Jette and Rosoff commenced the indicated original writ proceeding in the Second District Court
7 of Appeal, Division 3. It was assigned Case No. B229849.

8
9 3. Status of the Writ Proceeding, 2nd Civ. Case No. B229849

10 The City's writ petition as to the protective order for the Jette and Rosoff *Pitchess* motions
11 included a request for immediate stay, given this Court's scheduling of the "good cause" hearing
12 and other related rulings. On January 6, 2011, the Second District issued an order granting the
13 stay, prohibiting "[r]elease of any information contained in the confidential police personnel
14 records including the information set forth in the *Pitchess* motions . . . pending further order of
15 this court." On January 11, 2011, the City filed and served notice of the Court of Appeal's order.
16 On January 12, 2011, the Second District issued an order setting a hearing before the Court of
17 Appeal in the Jette and Rosoff protective order writ proceeding. The appellate hearing on that
18 writ proceeding (which has been consolidated with the hearing on the writ proceeding concerning
19 Plaintiff's *Pitchess* motion and this Court's turnover order after *in camera* review as to the
20 Gardiner investigations materials) is now set for April 13, 2011.

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22 4. Stay or Mooting of this Court's "Good Cause" Hearing Pending Resolution of The
23 Writ Proceeding in Case No. B229849.

24 Given the appellate orders on the writ proceedings, the parties believed that the February
25 9, 2011 tentative hearing date for the "good cause" stage of *Pitchess* motion process regarding the
26 Jette and Rosoff motions was either stayed by the Court of Appeal, mooted by the writ
27 proceeding, or at least premature. Counsel apologize to the Court for not attending what they
28 understood to have been a stayed or mooted hearing on February 9.

1 The Court of Appeal has not yet resolved the writ proceeding regarding the Jette and
2 Rosoff protective order, and in light of the granting of the stay there has been no briefing in this
3 Court by the City or others regarding the "good cause" stage of the Jette and Rosoff *Pitchess*
4 motions. Since the appellate hearing as to that writ proceeding in Case No. B229849 is now set
5 for April 13, 2011, the parties jointly request that the April 6, 2011 hearing as to Plaintiff's
6 *Pitchess* motions regarding Lieutenants Jette and Rosoff be vacated and taken off calendar.

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8 BURKE, WILLIAMS & SORENSSEN, LLP

9
10 By: _____

11 Ronald F. Frank
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13 City of Burbank
14 STONE BUSAILAH, LLP

15 By: _____

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17 Attorneys for Jay Jette and Eric Rosoff

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March 18, 2011

VIA FACSIMILE & U.S. MAIL

Ronald F. Frank, Esq.
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Los Angeles, California 90071-2953

**Re: William Taylor v. City of Burbank
Los Angeles County Superior Court Case No. BC 422 252**

Dear Mr. Frank:

Enclosed herewith is the *Joint Status Conference Statement of the Parties and Request for Vacating of Hearing Set for April 6, 2011* which has been signed by Mr. Smith in the above entitled action. The foregoing document containing Mr. Smith's original signature is also being forwarded to your office by first class mail. Please kindly provide this office with a conformed copy of the fully executed stipulation immediately upon your receipt of same.

Should you have any questions or wish to discuss this matter, please do not hesitate to contact our office.

Very truly yours,

[Handwritten signature of Selma I. Francoia]
Selma I. Francoia
Paralegal

cc: Christopher Brizzolara, Esq.
Carol A. Humiston, Sr. Asst. City Atty.
Linda Miller Savitt, Esq.